

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

VIOLET GOODWIN,

Plaintiff,

v.

TIMOTHY DUNNING, and BURMEISTER,
Lieutenant;

Defendants.

8:16CV458

MEMORANDUM AND ORDER

This matter is before the court on the pro se plaintiff's objection, [Filing No. 33](#), to the magistrate's order, [Filing No. 31](#). The plaintiff also styles [Filing No. 33](#) as an interlocutory appeal and [Filing No. 34](#) as a motion to appeal in forma pauperis. Upon review, it appears that plaintiff merely intends to appeal the magistrate judge's order to this court. Accordingly, the court will view plaintiff's [Filing No. 33](#) as an objection and appeal, and [Filing No. 34](#) will be denied.

The Supreme Court has construed the statutory grant of authority conferred on magistrate judges under [28 U.S.C. § 636](#) to mean that nondispositive pretrial matters are governed by § 636(b)(1)(A) and dispositive matters are covered by § 636(b)(1)(B). [Gomez v. United States](#), 490 U.S. 858, 873-74 (1989); see also [Fed. R. Civ. P. 72\(a\)](#). On review of a decision of the magistrate judge on a nondispositive matter, the district court may set aside any part of the magistrate judge's order that it finds is clearly erroneous or contrary to law. [28 U.S.C. § 636 \(b\)\(1\)\(A\)](#); [Fed. R. Civ. P. 72\(a\)](#). With respect to dispositive motions, a magistrate judge lacks authority to do anything but make recommendations, which are subject to de novo review. [United States v. Lothridge](#), 324 F.3d 599, 600 (8th Cir. 2003); [28 U.S.C. § 636\(b\)\(1\)](#).

Plaintiff brought this case pro se alleging violations pursuant to [42 U.S.C. § 1983](#). Plaintiff contends that defendants refused to give her a license for a handgun.

Defendant filed a motion to strike the amended complaint, [Filing No. 28](#). The magistrate granted the motion to strike and ordered the Clerk of Court to do so. The magistrate judge determined that plaintiff failed to comply with the 21 day pleading as a matter of course rule set forth in [Fed. R. Civ. P. 15](#). The plaintiff also failed to request permission from the court to file an amended complaint.

Plaintiff appeals the magistrate's order. However, plaintiff does not set forth any facts or arguments to support her appeal.

The court has carefully reviewed the filings, and in particular the decision of the magistrate judge, [Filing No. 31](#). The court finds the magistrate is correct as a matter of law and fact. Accordingly, the court will deny the appeal. If the plaintiff wants to file an amended complaint, she must file a motion requesting permission from the court to do so.

THEREFORE, IT IS ORDERED THAT:

1. Plaintiff's objection to the magistrate judge's order, [Filing No. 33](#), is denied;
2. Plaintiff's motion for leave to appeal in forma pauperis, [Filing No. 34](#), is denied;
3. The magistrate judge's order, [Filing No. 31](#), is affirmed.

Dated this 18th day of October, 2017.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge